

MV 95-14
Tax Type:
Issue:

MOTOR VEHICLE USE TAX
Private Vehicle Use Tax - Value Exceeds \$15,000

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS

DEPARTMENT OF REVENUE
STATE OF ILLINOIS

v.

TAXPAYER

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) Mimi Brin
) Administrative Law Judge

RECOMMENDATION FOR DISPOSITION

Synopsis:

This matter comes on for hearing pursuant to TAXPAYER' (hereinafter referred to as the "Taxpayer") timely protest of Notice of Tax Liability XXXXX issued by the Department on July 21, 1995 for Motor Vehicle Use tax on taxpayer's purchase of a 1987 Mercedes Benz automobile (hereinafter referred to as the "Automobile"). The taxpayer represented that the purchase price of the automobile was \$13,000.00, while the Department determined that the value of the automobile when purchased by this taxpayer exceeded \$15,000.00 and therefore, the taxpayer had not paid to the State the proper, statutory tax. Following the submission of all evidence and a review of the record, it is recommended that this matter be resolved in favor of the taxpayer.

Findings of Fact:

1. The Department's *prima facie* case, inclusive of all jurisdictional elements, was established by the admission into evidence of the Notice of Tax Liability XXXXX, showing a tax due of \$685.00. Dept. Ex. No. 2
2. On March 31, 1995, taxpayer purchased a 1987 black Mercedes Benz automobile from Israel Levy. Taxpayer Ex. No. 2
3. Taxpayer paid Israel Levy \$13,000.00 for the automobile.

Conclusions of Law:

Article X, Section 3-1001 of the Illinois Vehicle Code, 625 ILCS 5/3-1001, imposes a tax on the privilege of using in this state, a vehicle acquired by gift, transfer or purchase, with certain exceptions not pertinent hereto. That statute also specifies the rate of vehicle use tax to be paid on these transactions. *Id.*

The statute sets forth that the applicable tax for an automobile that is 8 years old at the time of transfer is \$65.00 if the selling price is under \$15,000.00. *Id.* For vehicles with a purchase price over that amount, regardless of age, the statute provides the applicable tax rate for the price paid. *Id.* In this case, the taxpayer indicated for tax purposes that she paid \$13,000.00 for the automobile, thus, the \$65.00 she paid as tax was the correct amount according to the statute.

This assessment arose as a result of the Department's review of the tax paid in this instance, and its determination that the automobile was valued at more than \$15,000.00 at the time of purchase. Thus, pursuant to statute, the applicable tax rate is \$750.00, and the Department's assessment reflects the difference between that amount and the amount paid.

At hearing, taxpayer offered into evidence a Bill of Sale showing that the automobile was purchased on March 31, 1995 by the taxpayer from Israel Levy for the purchase price of \$13,000.00 (Taxpayer Ex. No. 2) as well as a copy of the check issued to Mr. Levy on that date by the taxpayer for that amount. Taxpayer Ex. No. 3

This vehicle use tax is based upon the selling price of the vehicle. Therefore, the taxpayer has overcome the *prima facie* correctness of the Department's Notice of Tax Liability with documentation showing that the selling price of the automobile at issue was \$13,000.00.

Wherefore, for the reasons stated above, it is my recommendation that the assessment at issue be cancelled.

Mimi Brin
Administrative Law Judge